

Suspending limitations on conference committee
jurisdiction, S.B. No. 1913 (Zaffirini/Thompson of Harris)

By: Zaffirini

S.R. No. 926

R E S O L U T I O N

1 BE IT RESOLVED by the Senate of the State of Texas, 85th
2 Legislature, Regular Session, 2017, That Senate Rule 12.03 be
3 suspended in part as provided by Senate Rule 12.08 to enable the
4 conference committee appointed to resolve the differences on Senate
5 Bill 1913 (the administrative, civil, and criminal consequences,
6 including fines, fees, and costs, imposed on persons arrested for,
7 charged with, or convicted of certain criminal offenses) to
8 consider and take action on the following matters:

9 (1) Senate Rules 12.03(1) and (2) are suspended to permit
10 the committee to amend and omit text not in disagreement in SECTION
11 5 of the bill, in added Articles 43.05(a-1) and (a-2), Code of
12 Criminal Procedure, to read as follows:

13 (a-1) A court may not issue a capias pro fine for the
14 defendant's failure to satisfy the judgment according to its terms
15 unless the court holds a hearing on the defendant's ability to
16 satisfy the judgment and:

17 (1) the defendant fails to appear at the hearing; or
18 (2) based on evidence presented at the hearing, the
19 court determines that the capias pro fine should be issued.

20 (a-2) The court shall recall a capias pro fine if, before
21 the capias pro fine is executed:

22 (1) the defendant voluntarily appears to resolve the
23 amount owed; and

24 (2) the amount owed is resolved in any manner

1 authorized by this code.

2 Explanation: This change is necessary to clarify the
3 circumstances in which a court may issue or shall recall a capias
4 pro fine.

5 (2) Senate Rule 12.03(2) is suspended to permit the
6 committee to omit text not in disagreement in SECTION 7 of the bill,
7 in amended Article 43.091, Code of Criminal Procedure, to read as
8 follows:

9 Art. 43.091. WAIVER OF PAYMENT OF FINES AND COSTS FOR
10 CERTAIN [~~INDIGENT~~] DEFENDANTS AND FOR CHILDREN. A court may waive
11 payment of all or part of a fine or costs [~~cost~~] imposed on a
12 defendant [~~who defaults in payment~~] if the court determines that:

13 (1) the defendant is indigent or does not have
14 sufficient resources or income to pay all or part of the fine or
15 costs or was, at the time the offense was committed, a child as
16 defined by Article 45.058(h); and

17 (2) each alternative method of discharging the fine or
18 cost under Article 43.09 or 42.15 would impose an undue hardship on
19 the defendant.

20 Explanation: This change is necessary to remove unnecessary
21 and duplicative language.

22 (3) Senate Rules 12.03(1) and (2) are suspended to permit
23 the committee to amend and omit text not in disagreement in SECTION
24 8 of the bill, in added Article 45.014(e), Code of Criminal
25 Procedure, to read as follows:

26 (e) A justice or judge may not issue an arrest warrant for
27 the defendant's failure to appear at the initial court setting,

1 including failure to appear as required by a citation issued under
2 Article 14.06(b), unless:

3 (1) the justice or judge provides by telephone or
4 regular mail to the defendant notice that includes:

5 (A) a date and time, occurring within the 30-day
6 period following the date that notice is provided, when the
7 defendant must appear before the justice or judge;

8 (B) the name and address of the court with
9 jurisdiction in the case;

10 (C) information regarding alternatives to the
11 full payment of any fine or costs owed by the defendant, if the
12 defendant is unable to pay that amount; and

13 (D) an explanation of the consequences if the
14 defendant fails to appear before the justice or judge as required by
15 this article; and

16 (2) the defendant fails to appear before the justice
17 or judge as required by this article.

18 Explanation: This change is necessary to clarify and simplify
19 the limitation on a justice or judge's authority to issue an arrest
20 warrant for a defendant's failure to appear.

21 (4) Senate Rule 12.03(1) is suspended to permit the
22 committee to amend text not in disagreement in SECTION 9 of the
23 bill, in added Article 45.016(b), Code of Criminal Procedure, to
24 read as follows:

25 (b) The justice or judge may not, either instead of or in
26 addition to the personal bond, require a defendant to give a bail
27 bond unless:

1 (1) the defendant fails to appear in accordance with
2 this code with respect to the applicable offense; and

3 (2) the justice or judge determines that:

4 (A) the defendant has sufficient resources or
5 income to give a bail bond; and

6 (B) a bail bond is necessary to secure the
7 defendant's appearance in accordance with this code.

8 Explanation: This change is necessary to clarify the
9 circumstances in which a justice or judge may require a defendant to
10 give a bail bond in a criminal case based on an offense punishable
11 by fine only.

12 (5) Senate Rules 12.03(1) and (2) are suspended to permit
13 the committee to amend and omit text not in disagreement in SECTION
14 12 of the bill, in added Articles 45.045(a-2) and (a-3), Code of
15 Criminal Procedure, to read as follows:

16 (a-2) The court may not issue a capias pro fine for the
17 defendant's failure to satisfy the judgment according to its terms
18 unless the court holds a hearing on the defendant's ability to
19 satisfy the judgment and:

20 (1) the defendant fails to appear at the hearing; or

21 (2) based on evidence presented at the hearing, the
22 court determines that the capias pro fine should be issued.

23 (a-3) The court shall recall a capias pro fine if, before
24 the capias pro fine is executed:

25 (1) the defendant voluntarily appears to resolve the
26 amount owed; and

27 (2) the amount owed is resolved in any manner

1 authorized by this chapter.

2 Explanation: This change is necessary to clarify the
3 circumstances in which a court may issue or shall recall a *capias*
4 *pro fine*.

5 (6) Senate Rule 12.03(2) is suspended to permit the
6 committee to omit text not in disagreement in SECTION 16 of the
7 bill, in amended Article 45.0491(a), Code of Criminal Procedure, to
8 read as follows:

9 (a) A municipal court, regardless of whether the court is a
10 court of record, or a justice court may waive payment of all or part
11 of a fine or costs imposed on a defendant [~~who defaults in payment~~]
12 if the court determines that:

13 (1) the defendant is indigent or does not have
14 sufficient resources or income to pay all or part of the fine or
15 costs or was, at the time the offense was committed, a child as
16 defined by Article 45.058(h); and

17 (2) discharging the fine or [~~and~~] costs under Article
18 45.049 or as otherwise authorized by this chapter would impose an
19 undue hardship on the defendant.

20 Explanation: This change is necessary to remove unnecessary
21 and duplicative language.

22 (7) Senate Rule 12.03(3) is suspended to permit the
23 committee to add text on a matter which is not in disagreement by
24 adding SECTIONS 20 and 21 to the bill, amending Articles 45.051(a)
25 and 45.0511(t), Code of Criminal Procedure, to read as follows:

26 SECTION 20. Article 45.051(a), Code of Criminal Procedure,
27 is amended to read as follows:

1 (a) On a plea of guilty or nolo contendere by a defendant or
2 on a finding of guilt in a misdemeanor case punishable by fine only
3 and payment of all court costs, the judge may defer further
4 proceedings without entering an adjudication of guilt and place the
5 defendant on probation for a period not to exceed 180 days. In
6 issuing the order of deferral, the judge may impose a special
7 expense fee on the defendant in an amount not to exceed the amount
8 of the fine that could be imposed on the defendant as punishment for
9 the offense. The special expense fee may be collected at any time
10 before the date on which the period of probation ends. The judge
11 may elect not to impose the special expense fee for good cause shown
12 by the defendant. If the judge orders the collection of a special
13 expense fee, the judge shall require that the amount of the special
14 expense fee be credited toward the payment of the amount of the fine
15 imposed by the judge. An order of deferral under this subsection
16 terminates any liability under a [~~bail bond or an appearance~~] bond
17 given for the charge.

18 SECTION 21. Article 45.0511(t), Code of Criminal Procedure,
19 is amended to read as follows:

20 (t) An order of deferral under Subsection (c) terminates any
21 liability under a [~~bail bond or appearance~~] bond given for the
22 charge.

23 Explanation: The addition of text is a technical change
24 necessary to conform to the changes made in SECTION 9 of the bill,
25 in added Article 45.016(b), Code of Criminal Procedure.

26 (8) Senate Rule 12.03(1) is suspended to permit the
27 committee to amend text not in disagreement in SECTION 31 of the

1 bill, in the transition language, to read as follows:

2 SECTION 31. The changes in law made by this Act to Articles
3 45.016, 45.051, and 45.0511, Code of Criminal Procedure, apply only
4 to a bond executed on or after the effective date of this Act. A
5 bond executed before the effective date of this Act is governed by
6 the law in effect when the bond was executed, and the former law is
7 continued in effect for that purpose.

8 Explanation: This change is necessary to properly implement
9 the addition of SECTIONS 20 and 21 to the bill.